



McGILLIVRAY
WESTERBERG
& BENDER LLC
ATTORNEYS

April 8, 2014

Via Electronic Mail:

r5foia@epa.gov

Freedom of Information Officer
U.S. EPA Region 5 (MI-9J)
77 West Jackson Blvd.
Chicago, IL 60604-3590

RE: FOIA Request

Dear FOIA Officer:

This is a Freedom of Information Act (FOIA) request sent on behalf of the Sierra Club.

A. Records Sought

Sierra Club requests copies of the following records:

- 1) Any records, including notes, memoranda, and correspondence with the Wisconsin Department of Natural Resources and/or Wisconsin Public Service Corporation (or their agents, officers, or employees), dated on or after January 1, 2009, regarding the following:
 - a. Draft or final WPDES Permit No. WI-0000965-09-0, issued to Wisconsin Public Service Corporation's Pulliam Plant on August 1, 2013;
 - b. Any thermal variance pursuant to section 316(a) of the Clean Water Act applied for, considered, or proposed for the Pulliam Plant; and

- c. Impacts to the environment from the Pulliam Plant's cooling water intake structures or its thermal discharges.
- 2) Any records, including guidance documents, internal or external memoranda, or correspondence with state agency personnel or with NPDES-permitted facilities, relating to the implementation of section 316(b) of the Clean Water Act and/or 40 C.F.R. § 125.90(b) by either EPA or state agencies, dated on or after July 9, 2007.

B. Request for Fee Waiver

Sierra Club respectfully requests a full fee waiver because, as shown below, the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

First, the requested records will contribute significantly to public understanding of the operations or activities of the government. The requested records relate to the EPA's involvement in, and oversight of, Wisconsin's NPDES permitting program, and specifically the permitting of the Pulliam coal-fired power plant. The requested records also relate to EPA's interpretation of its regulatory authority under CWA § 316(a) and (b), which has broad implications not only at the Pulliam plant but also at numerous other facilities around Wisconsin and beyond. The Sierra Club, including its Wisconsin-based John Muir Chapter, is comprised of individuals with expertise in water quality, aquatic resource management, and environmental policy who have the ability to understand and distill the contents of the requested records. Moreover, Sierra Club has the ability to disseminate the information contained in the requested records, not only to its own members but also to the broader public via its website (<http://wisconsin.sierraclub.org/>), its periodic newsletter, and like-minded conservation partners in Wisconsin. The information requested will shed light on ongoing efforts to alleviate the impacts of the discharge of heated water and

Second, disclosure of the requested information is not in the commercial interest of Sierra Club. Sierra Club is a not-for-profit, non-stock, public interest membership organization organized under sections 501(c)(3) and (c)(4) of the Internal Revenue Code. Its mission is to explore, enjoy, and protect the planet, and its national "Beyond Coal

Campaign" strives to reduce the environmental and public health impacts of coal-fired electricity generation. In short, COLA has no commercial interest

C. Record Reproduction

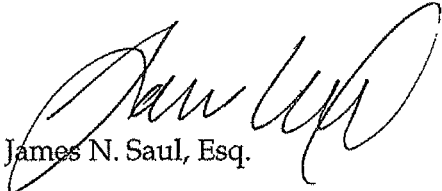
Sierra Club prefers that all responsive records be provided in electronic format to the extent feasible. Records should be sent to me at the following address:

Atty. James N. Saul
McGillivray Westerberg & Bender LLC
211 S. Paterson Street, Suite 320
Madison, WI 53703

Should you have any questions or need clarification on this request, I may be contacted at saul@mwbattoorneys.com or (608) 310-3560. Thank you for your consideration of this request.

Sincerely,

MCGILLIVRAY WESTERBERG & BENDER LLC


James N. Saul, Esq.